

FILED

APR 07 2020

U.S. DISTRICT COURT-WVND  
CLARKSBURG, WV 26301

IN THE UNITED STATES DISTRICT COURT FOR THE  
WEST VIRGINIA NORTHERN DISTRICT

MINISTER-CLEVELAND WINSTON

Bivens

KILGORE-BEY et al.,

) Civil Case No. 3:20cv60

Petitioner,

) Groh, Trumble  
) Sims

VS.

) JURISDICTION IS INVOKED

) PURSUANT TO, 28 USCS § 1361,  
28 USCS § 1331 And 28 USCS § 1651

DIRECTOR

FEDERAL BUREAU OF PRISONS

) THE ALL WRITS ACT

WARDEN R HUDGINS et al.,

Respondents,

MOTION FOR LEAVE TO FILE FOR AN EMERGENCY EXPEDITED  
RULING FOR MANDAMUS RELIEF FOR MEDICAL PROTECTION.

Now comes, Petitioner Minister-Cleveland Winston Kilgore-Bey (hereinafter Minister-Kilgore-Bey), respectfully file this petition pursuant to 28 USCS § 1361 in the interest of justice for an Article III judge appointed to Adjudicate this declaration for an expedited ruling for a Writ to issue

for mandamus relief to protect the Petitioner Minister-Kilgore-Bey liberty and, his current health conditions from deteriorating from his current medical conditions of sarcoidosis and, a breathing condition of sleep apnea that has not been recognized or treated while detained at the Federal Bureau of Prisons / Institution-Gilmer, WV housed under the care of Respondents. Therefore, I respectfully request for the Honorable court judge to take "JUDICIAL NOTICE," of the following Allegations of truth and, current violations of my rights through the US Constitutional Amendments 1 Redress the Government for grievances, 8<sup>th</sup> Amendment Cruel and Unusual Punishment and the 14<sup>th</sup> Amendment Full Protection of the Due Process Clause to declare release to travel home to seek medical care.

## JURISDICTIONAL STATEMENT FOR ADJUDICATION AND AWARD OF THIS WRIT OF MANDAMUS

I, Minister-Kilgore-Bey, respectfully invoke the Honorable court Notice pursuant to the Federal Rules of Evidence 201 and, the following United States laws 28 USC§ 1361, 28 USC§ 1331 and the ALL WRITS ACT 28 USC§ 1651 (a)(b) see Attached Exhibit A in support of pleadings, and the Federal Arbitration Act statutes 5 USC§ 702 and 5 USC§ 706 (1)(2)(A)(B) and (C) Scope of Review.

## FACTS CONCERNING THE EXPEDITED AWARD FOR MANDAMUS RELIEF TO COMPEL AN OFFICER OF THE UNITED STATES TO PERFORM HIS DUTY

The following facts and declarations are stated to support the emergency award for Mandamus Relief of current violations and negligence of Cruel and Unusual Punishment through Respondent violations of the United States laws 18 USC § 4042 (a)(2) and (C).

On or about August 13, 2019, I arrived at the Federal Correctional Institution - Gilmer, thus, upon my arrival I was medically screened for acute medical issues I may have before arrival. During this screening the medical contractor P.A. Wilson was placed on "Notice," of all of my acute medical conditions, whereas, I was provided with a permanent "Medical Duty Status Form," to have an immediate cell on the 1st floor and, a lower bunk restriction to sleep on the lower bunk because of my medical conditions warrant that action. At the same day of my medical screening the Bureau of Prison staff at medical was given "Notice," of my lung condition of sarcoidosis and, a acute medical condition of sleep apnea which causes me to stop breathing while sleeping and I am in need for a breathing machine. See, In Support Attached Exhibit B From Health Services.



Thus, I have not received any health care for my acute medical breathing disabilities of SARCADOSIS OR Sleep Apnea. See, Exhibit B, whereas, within 7 months this Agency refused acute medical care and deceive me every month since August 2019 upon my arrival to provide the appropriate medical breathing machine I still need as of today. See Exhibit B 1st paragraph of medical response I provided.

Therefore, this Agency FCI-Gilmer Federal Correctional Institution has deliberately caused immediate ~~harm~~ harm to my body, health and life. Thus, I now invoke for an expedited emergency AWARD of Mandamus for the current violations of my liberty interest in the US Constitution 8<sup>th</sup> Amendment Cruel and Unusual Punishment and the 14<sup>th</sup> Amendment Full due process protections and I invoke the "Supremacy Clause," in the US Constitution Article VI, cl. 2 full protection and adjudication.

See Case of Authority: DIRECTV, INC. v. IMBURGIA, US, 193 LEd2D 365 see Headnote 4. The Federal Arbitration Act is a Law of the United States, and AT&T Mobility LLC v. Conception (2011) 563 U.S. 333, 131 S.Ct. 1740, 179 LEd.2d 742, is an authoritative interpretation of that Act. Consequently, the judges of every state must follow it. U.S. Const. Art. VI, cl. 2 provides that the judges in every state shall be bound by the laws of the United States.

See Case of Authority; EX PARTE BURFORD 3 CRANCH 448, 2 LED 495 see Burford at [3 CRANCH 449]; By the 14<sup>th</sup> section of the judiciary Act of 1789, vol. 1, p. 58, it is enacted, "that All the before mentioned courts of the United States" (including the Supreme Court) "shall have power to issue writs of scire facias, habeas corpus, and all other writs," &c.

Wherefore, I Minister-Kilgore-Bey Am currently locked down 23 hours daily with no remedy of relief, except through the court system to protect my life and liberty from further deterioration and invasion of the now COVID-19 virus that is now affecting the state of West Virginia and, the Federal Correctional Institution - Gilmer where I am now detained and ~~the~~ scheduled for release appx. Dec. 14, 2020. Thus, if this Institution Case Manager Ms. Taylor would have followed the Bureau of Prisons policy to process my release package 4 months ago I would be home with my machine. The Bureau of Prisons policy provide that all inmates are eligible for release on home monitoring or halfway house within 12 to 18 months of the projected release date.

I am now locked down under life threatening conditions, therefore, I declare for an expedited AWARD of Writ of Mandamus in the interest of justice. See. In support Attached Exhibits A Affidavit and Exhibit B Medical Correspondence.



## OATH

I, Minister-Cleveland Winston Kilgore-Bey, declare pursuant 28 USC § 1746 that, the foregoing is true and correct;

## PRAYER FOR RELIEF

I declare for this Honorable Court judge to execute an expedited AWARD and GRANT for full medical compassionate release to be served by the US Marshals Service on Respondent Director of the Bureau of Prisons and Warden R. Hudgins et al, through orders executed in Chambers in the interest of justice. Direct Respondent without delay unconditionally released <sup>Petitioner</sup> to travel home for urgent medical care that has been denied. Also direct Respondent to fully comply with the court order before 30 days <sup>grace</sup> of granting this writ.

Date: April 1, 2020 Anno Domini.

"PRINCIPAL"  
NOTICE TO AGENT

Respectfully Submitted,  
uccs § 1-207 and uccs § 1-308 "Without Prejudice"

Principal / Minister - Cleveland Winston Kilgore-Bey  
c/o CLEVELAND KILGORE #09441-0007  
Federal Correctional Institution - Gilmer  
P.O. Box 6000  
Glennville, WV 26351